

From: [niall macgiollabhui](#)
To: ["Scharfstein, Susan \(Law\)"](#)
Subject: RE: KELLNER, SAMUEL VS CITY OF NEW YORK, ET AL. - April 26, 2023,at 10:00 a.m.
Date: Tuesday, April 25, 2023 12:28:00 PM

Susan,

As you know from our email correspondence on Friday, Mr. Dowd is not available tomorrow at 10 am because of a (remote) court appearance at that time. The parties agreed the date on March 30, and, as per my email to you on March 31, I let Mr. Dowd know that April 26 was the new date for his deposition. You asked me on Friday to confirm with him and I advised you later that day of his oversight with regard to the court appearance. I suggested Thursday instead. You did respond to my email. On Monday, having travelled to Mr. Dowd's home, I advised you by email that he was available tomorrow at 3 pm. I further advised that he's not able to sit for a deposition beyond a few hours a day because of the fact that he underwent major spine surgery on March 7; that he generally has physical therapy around noon and has to rest afterwards; and that he's available on Thursday morning and afternoon and on Friday afternoon. I suggested 2/3 hours of his deposition on Wednesday with additional time scheduled on Thursday or Friday if necessary. Again, you have not responded to my email.

I am attempting to confer in good faith to resolve this issue pursuant to Local Rule 37.3. In that regard, please let me know a good time for us to speak today by phone.

Regards,
Niall

Niall MacGiollabhui, Esq.
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From: Scharfstein, Susan (Law) <sscharfs@law.nyc.gov>
Sent: Tuesday, April 25, 2023 8:40 AM
To: [niall macgiollabhui](#) <niallmacg@macglaw.com>
Subject: KELLNER, SAMUEL VS CITY OF NEW YORK, ET AL. - April 26, 2023,at 10:00 a.m.

The link for tomorrow's deposition beginning at 10:00 a.m. is below. Please forward to the witness or provide me with his email address so that I may do so.

Thank you.

Susan P. Scharfstein
New York City Law Department

100 Church Street
New York, NY 10007
Tel: (212) 356-2355
Email: sscharfs@law.nyc.gov

Please see below for Zoom details for 4/26 at 10AM:

<https://veritext.zoom.us/j/85789638900?pwd=Wmlhc2w4dGNMZW9ONHdEMkgzVIZuZz09>

Meeting ID: 85789638900

Password: 0GxTncAoG4

From: [niall macgiollabhui](#)
To: [Scharfstein, Susan \(Law\)](#)
Subject: Re: [EXTERNAL] RE: Dowd deposition
Date: Monday, April 24, 2023 4:02:10 PM

I spoke with Mr. Dowd and he's available on Wednesday afternoon at 3. He's not able to sit for a deposition beyond a few hours a day. He generally has physical therapy around noon and has to rest afterwards. He's also available on Thursday morning and afternoon and on Friday afternoon. I suggest we do 2/3 hours on Wednesday. It may be that you don't need more time. I'm fine with scheduling additional time on Thursday or Friday to the extent that you do.

Sent from my iPhone

On Apr 24, 2023, at 11:13 AM, niall macgiollabhui <niallmacg@macglaw.com> wrote:

I'm going to speak again with Mr. Dowd this afternoon and find out what time the hearing is scheduled and what availability he otherwise has on Wednesday and the rest of this week.

Sent from my iPhone

On Apr 21, 2023, at 9:34 PM, niall macgiollabhui <niallmacg@macglaw.com> wrote:

Do you have a conflict on Thursday?

Sent from my iPhone

On Apr 21, 2023, at 9:09 PM, Scharfstein, Susan (Law) <sscharfs@law.nyc.gov> wrote:

He should request an adjournment.

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From: niall macgiollabhui <niallmacg@macglaw.com>
Sent: Friday, April 21, 2023 7:57:08 PM
To: Scharfstein, Susan (Law) <sscharfs@law.nyc.gov>
Subject: Re: [EXTERNAL] RE: Dowd deposition

He told me he has a hearing that day in a set of CVA cases.

Sent from my iPhone

On Apr 21, 2023, at 7:15 PM, Scharfstein, Susan (Law) <sscharfs@law.nyc.gov> wrote:

What is the conflict?

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From: niall macgiollabhui
<niallmacg@macglaw.com>
Sent: Friday, April 21, 2023 5:33:31 PM
To: Scharfstein, Susan (Law)
<sscharfs@law.nyc.gov>
Subject: [EXTERNAL] RE: Dowd deposition

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Forward suspect email to phish@oti.nyc.gov as an attachment (Click the More button, then forward as attachment).

I just spoke to Mr. Dowd. He has a conflict on Wednesday but is available on Thursday at 10 am.

From: Scharfstein, Susan (Law)
<sscharfs@law.nyc.gov>
Sent: Friday, April 21, 2023 8:36 AM
To: niall macgiollabhui
<niallmacg@macglaw.com>
Subject: Dowd deposition

Confirming for next Wednesday at 10:00 a.m.

Thanks.

Susan P. Scharfstein
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New York, NY 10007
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Email: sscharfs@law.nyc.gov